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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

CASE NO.: 8:03-CR-77-T-30TBM

SAMI AMIN AL-ARIAN  
SAMEEH HAMMOUDEH  
GHASSAN ZAYED BALLUT

**ORDER**

This matter is before the Court on the Report and Recommendation of the Magistrate (Dkt. #163) on Defendant Ghassan Ballut's Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel (Dkt. #128). Defendants Al-Arian and Hammoudeh joined in the motion. On June 12, 2003, the Magistrate rendered his report and recommendation that the Motion be granted. No party has objected to the Magistrate's recommendations, findings, or conclusions.

Upon consideration, the Magistrate's recommendations, findings, and conclusions are adopted, approved, and incorporated into this Order, which is attached as Addendum "A" to this Order. The Motion (Dkt. #128) is **GRANTED** subject to the following terms and conditions.

Ballut, Al-Arian, and Hammoudeh may hire the proposed paralegal to be shared between the three co-defendants. The paralegal shall be responsible for the coordination,

207

review, and organization of the discovery. All three counsel have agreed to conduct cooperative discovery, and the service of the paralegal for the three court appointed counsel will not present any conflict of interest. The paralegal shall bill her services at the rate of \$25.00 per hour. The paralegal will be entitled to incur travel expenses of not more than \$105.00 per week without prior approval of this Court. The total annualized cost for this paralegal services and expenses shall not exceed \$57,460.00 per year without prior approval of this Court.

Because of the expected length of the trial in this case, and the anticipated hardship on persons providing services pursuant to subsection (e) of the Criminal Justice Act for such a period without compensation, in accordance with paragraph 3.06 A of the Guidelines for the Administration of the Criminal Justice Act, the following procedures for interim payments shall apply during the course of the paralegal's employment in this case:

1. Submission of Vouchers

Persons providing services under subsection (e) shall submit to the court clerk, twice each month, an interim CJA Form 21, "Authorization and Voucher for Expert and Other Services." Compensation earned and reimbursable expenses incurred from the first to the fifteenth days of each month shall be claimed on an interim voucher submitted no later than the twentieth day of each month, or the first business day thereafter. Compensation earned and reimbursable expenses incurred from the sixteenth to the last day each month shall be claimed on an interim voucher submitted no later than the fifth day of the following month,

or the first business day thereafter. The first interim voucher submitted shall reflect all compensation claimed and reimbursable expenses incurred from the date on which your services were first retained to August 1, 2003, and shall be submitted no later than August 5, 2003; thereafter, the vouchers shall be submitted twice each month according to the schedule outlined above. Claimants shall complete Item 17 of each interim voucher submitted. Each voucher shall be assigned a number when processed for payment. Interim vouchers shall be submitted in accordance with this schedule even though little or no compensation or expenses are claimed for the respective period. All interim vouchers shall be supported by detailed and itemized time and expense statements. Chapter III of the Guidelines for the Administration of the Criminal Justice Act outlines the procedures and rules for claims by persons providing services pursuant to subsection (e) and should be followed regarding each voucher.

The Court will review the interim vouchers when submitted, particularly with regard to the amount of time claimed, and will authorize compensation to be paid for two-thirds of the approved number of hours. This compensation will be determined by multiplying two-thirds of the approved number of hours by the applicable rate. The Court will also authorize for payment all reimbursable expenses reasonably incurred.

Every three (3) months, counting from the submission date for the first interim voucher, until the conclusion of the services, claimant shall submit a cumulative interim voucher seeking payment of the outstanding one third balance withheld from all earlier

interim compensation paid out during the preceding three-month interval, as well as payment for services rendered during the last interim period of the interval. The cumulative interim voucher shall be labeled as such and shall set forth in detail the time and expenses claimed for the entire interval, including all appropriate documentation. A statement shall be attached to the cumulative interim voucher, which reflects all compensation and reimbursement previously received, as well as the net amount remaining to be paid at the end of the interval. After reviewing the cumulative interim voucher, I will submit it to the chief judge of the circuit, or his or her delegate, for review and approval. At the conclusion of the period during which you provide services in this case, you shall submit a final cumulative voucher seeking payment of the one-third balance withheld from the interim vouchers processed during the final interval, as well as payment for services rendered during the last interim period of the interval.

2. Reimbursable Expenses

Person providing services pursuant to subsection (e) may be reimbursed for out-of-pocket expenses reasonably incurred incident to the representation. The following guidelines may be helpful:

a. Case related travel by privately owned automobile should be claimed at the rate of [\$.36 ] cents per mile, plus parking fees, ferry fares, and bridge, road, and tunnel tolls. Transportation other than privately owned automobile should be claimed on an actual expense basis. Air travel in "first class" is prohibited. Counsel and persons providing service

under the CJA are encouraged to contact the clerk for air travel authorization at government rates.

b. Actual expenses incurred for meals and lodging while traveling outside of the city of Tampa in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations. For specific details concerning high cost areas, counsel should consult the clerk.

c. Telephone toll calls, telegrams, photocopying, and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead, such as rent, secretarial help, and telephone service, is not a reimbursable expense, nor are items of a personal nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by Rule 17, F.R.Cr.P. and 28 U.S.C. § 1825.

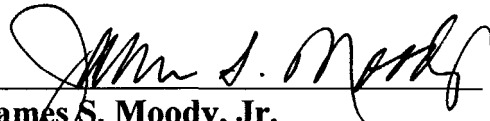
### 3. Further Questions or Guidance

Answers to questions concerning appointment under the Criminal Justice Act can generally be found in (1) 18 U.S.C. § 3006A; (2) the Plan of the United States District Court for the Middle District of Florida, available through the clerk, and (3) Guidelines for the Administration of the Criminal Justice Act, published by the Administrative Office of the U.S. Courts, also available through the clerk. Should these references fail to provide the desired clarification or direction, counsel should address their inquiry directly to me or my staff.


With respect to counsel's request to exceed the fee cap, this case will be extended and complex and may require greater compensation than normal to provide fair compensation. Accordingly, the Court recommends that the Chief Judge of the Eleventh Circuit waive the compensation maximum provided by the Criminal Justice Act.<sup>1</sup>

It is also ORDERED AND ADJUDGED that Defendant Ghassan Ballut's Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel (Dkt. #128) is **GRANTED**.

ORDERED in Tampa, Florida, on July 2, 2003.

  
James S. Moody, Jr.  
UNITED STATES DISTRICT JUDGE

APPROVED:

  
Chief Judge of the United  
States Court of Appeals for  
the Eleventh Circuit

DATE: 7/21/03

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<sup>1</sup> This approval does not override the review of vouchers for reasonableness as required by the Criminal Justice Act.

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**UNITED STATES OF AMERICA**

**Plaintiff,**

**v.**

**Case No. 8:03-cr-77-T-30TBM**

**GHASSAN ZAYED BALLUT,**

**Defendant.**

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**REPORT AND RECOMMENDATION**

THIS MATTER is before the court on Defendant's **Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel and Memorandum of Law** (Doc. 128). By this motion, counsel seeks an order of the court authorizing the hiring of a paralegal to assist with discovery and trial preparation.<sup>1</sup>

Mr. Ballut and seven others are accused in a fifty-count indictment alleging, among other offenses, conspiracy to commit racketeering; conspiracy to murder, maim, or injure persons in foreign countries; conspiracy to provide material support to a designated terrorist organization (the Palestinian Islamic Jihad); and travel in or use of mail or other facility of interstate or foreign commerce with intent to commit or promote crimes of violence. Indexes provided by the Government reveal that the Rule 16 discovery in this cause is extraordinary.

<sup>1</sup>Defendant's counsel has chosen the particular individual he wishes to hire. This person, a non-practicing attorney, would bill her services at the rate of \$25.00 per hour plus travel expenses (mileage and parking), estimated at not more than \$105.00 per week. The total annualized cost of this paralegal is estimated at a maximum of \$57,460.00.

It is extraordinary not only because it is voluminous, but because much of it is in a foreign language. As an example, the discovery includes thousands of hours of intercepted communications and a volume of documents and other tangible exhibits which are entirely in Arabic or Hebrew and must be interpreted before counsel may use it effectively in these proceedings. All but a couple hundred of the intercepted communications remain classified and proceedings at this point, related to this evidence, will necessarily be in accordance with the Classified Information Procedures Act ("C.I.P.A."), 18 U.S.C. App. 3. The case involves significant and time consuming legal issues as well. The volume of discovery and legal issues are such that some counsel have suggested a minimum of eighteen to twenty-four months is necessary to prepare for trial. The government has not disagreed and estimates the trial itself will take from six to twelve months. Mr. Ballut's counsel, who is appointed pursuant to 18 U.S.C. § 3006A and this district's CJA panel plan, practices in a small firm. Realistically, much, if not most, of the intercepted communications will be of no evidentiary value to either the Government or the defense, although this cannot be determined without review of the conversations. Given the nature of these proceedings and the expected duration of the case, Defendant's counsel would bear a considerable hardship should he not be allowed to obtain the services of an experienced paralegal to aid in reviewing and organizing the voluminous discovery in this case.

At present, two other of the defendants are also represented by CJA counsel. These attorneys join the request to appoint a paralegal. As the undersigned has discussed the use of this paralegal with counsel, she would assist all three defendants in the review and organization of the discovery. Given the agreement of all counsel to conduct unified and



cooperative discovery, the services of the paralegal working for all CJA counsel will not present any conflict of interest.<sup>2</sup> The proposed paralegal has also agreed to undergo the necessary background/security investigation required by the C.I.P.A.

The provisions of section 3006A provide for the appropriation of funds for the hiring of “investigative, expert, or other services necessary for adequate representation . . .” 18 U.S.C. § 3006A(e); U.S. v. Rinchack, 820 F.2d 1557, 1563 (11th Cir. 1987). Here, none of the defendants have evidenced the financial ability to obtain such services on their own. I find a clear need for the services of such a paralegal to assist CJA counsel in this case. While the costs of such a paralegal are not insignificant, over the long course of trial preparation in this case a considerable savings will be realized if the work is structured so that preliminary review is conducted by the paralegal rather than each separate CJA counsel. The individual proposed for the position is highly qualified, her proposed hourly rate of \$25.00 is reasonable and indeed, at the low end of the usual and customary rate paid paralegals in this market for similar work on civil cases. Her costs will be governed by statute or regulation.

Accordingly, it is recommended that Defendant’s **Ex Parte Motion for Appointment and Compensation of Paralegal to Assist Counsel and Memorandum of Law** (Doc. 128) be GRANTED, and that the District Judge certify the appointment of a paralegal to assist all CJA counsel as set forth above, as well as payment of the reasonable and necessary fees and costs of such paralegal at the proposed rate on an interim payment basis

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<sup>2</sup>These counsel, along with the Federal Public Defender, have agreed to conduct discovery in a unified and collective fashion. To this end, the FPD is seeking funds to hire the necessary personnel to interpret and transcribe the discovery. It will employ at least one paralegal or clerk of its own to assist with processing and scanning the documentary discovery. At present, scanning itself is a near full-time job.

similar to that proposed by counsel and that these matters then be forwarded to the Chief Judge of the Eleventh Circuit Court of Appeals or his designate for further consideration.

Respectfully submitted on this  
12th day of June 2003.



THOMAS B. McCOUN III  
UNITED STATES MAGISTRATE JUDGE

**NOTICE TO PARTIES**

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days from the date of its service shall bar an aggrieved party from attacking the factual findings on appeal and a *de novo* determination by a district judge.

28 U.S.C. § 636(b)(1); M.D. Fla. R. 6.02.

Copies to:  
United States District Judge  
Counsel of Record

F I L E   C O P Y

Date Printed: 08/06/2003

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